

HOUSE BILL 768

By Lamberth

AN ACT to amend Tennessee Code Annotated, Title 71,
Chapter 3, Part 5, relative to child care agency
licensing.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 71-3-502(a)(2)(B), is amended by deleting the word "2000" and substituting instead the word "2021".

SECTION 2. Tennessee Code Annotated, Section 71-3-502(b)(2), is amended by deleting the subdivision and substituting the following:

(2) If a license is revoked or an application for licensure is denied, then the department shall offer reasonable assistance to the parent, guardian, or custodian of children in care in planning for the placement of the children in licensed child care agencies or other suitable care.

SECTION 3. Tennessee Code Annotated, Section 71-3-502(c), is amended by deleting the language "set forth in the fee schedule in subsection (g)" and substituting the language "established by rule as provided in subsection (f)".

SECTION 4. Tennessee Code Annotated, Section 71-3-502(d)(1), is amended by deleting the language "either a restricted or unrestricted temporary" and substituting the language "a provisional".

SECTION 5. Tennessee Code Annotated, Section 71-3-502(d)(1), is amended by deleting the word "temporary" wherever it appears and substituting the word "provisional".

SECTION 6. Tennessee Code Annotated, Section 71-3-502(d)(2), is amended by deleting the language "receive a temporary license" and substituting the language "receive a provisional license".

SECTION 7. Tennessee Code Annotated, Section 71-3-502(d)(2)(C), is amended by deleting the language "both during the temporary and the annual license period" and substituting the language "both during and after the provisional licensing period".

SECTION 8. Tennessee Code Annotated, Section 71-3-502(d)(2)(E), is amended by deleting the language "restricted or unrestricted" and substituting the word "provisional".

SECTION 9. Tennessee Code Annotated, Section 71-3-502(d)(3), is amended by deleting the subdivision and substituting the following:

(3) If the department determines that any of the criteria in subdivision (d)(2) has not been, or cannot be met, then it may deny the application for a provisional license.

SECTION 10. Tennessee Code Annotated, Section 71-3-502(d)(4)(A), is amended by deleting the subdivision and substituting the following:

(A) If the department determines that the applicant has fully complied with subdivision (d)(2) and with all other laws and regulations governing the specific classification of child care agency for which the application was made, that the child care agency has demonstrated the ability to maintain compliance with all licensing regulations following the provisional licensure period, and that it has a reasonable likelihood of maintaining licensure, then the department shall issue a license.

SECTION 11. Tennessee Code Annotated, Section 71-3-502(d)(4)(B), is amended by deleting the language "the annual" and substituting the word "a".

SECTION 12. Tennessee Code Annotated, Section 71-3-502(d)(7)(B), is amended by deleting the last sentence in the subdivision.

SECTION 13. Tennessee Code Annotated, Section 71-3-502(d)(7)(C)(iii), is amended by deleting the language "The department shall also promulgate rules providing that, on and after May 1, 2005" and substituting the language "Subject to department rule".

SECTION 14. Tennessee Code Annotated, Section 71-3-502(d)(8), is amended by deleting the subdivision and substituting the following:

(8) If the department fails to issue a license within one hundred twenty (120) days of the granting of the provisional license, then the provisional license continues in effect, unless suspended, as provided in § 71-3-509, until such determination is made. If a license is denied following the issuance of a provisional license, and if a timely appeal is made of the denial of a license, then the provisional license remains in effect, unless suspended, until the board of review renders a decision regarding the denial of a license.

SECTION 15. Tennessee Code Annotated, Section 71-3-502(d)(9), is amended by deleting the language "If a temporary or annual license is denied, or an annual license is restricted" and substituting the language "If a provisional license is denied or a license is denied following the issuance of a provisional license".

SECTION 16. Tennessee Code Annotated, Section 71-3-502(e), is amended by deleting the word "temporary" wherever it appears and substituting the word "provisional".

SECTION 17. Tennessee Code Annotated, Section 71-3-502(e)(3)(B), is amended by deleting the language "an annual or extended license" and substituting the language "a license".

SECTION 18. Tennessee Code Annotated, Section 71-3-502(f), is amended by deleting the subsection and substituting the following:

(1) Prior to January 1, 2022, the licensure application fees as they existed for child care agencies on June 30, 2021, apply. On or after January 1, 2022, licensure fees apply only to applications for provisional licenses for child care agencies licensed pursuant to this part in amounts established by rules promulgated by the department pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(2) In order to address the need for and encourage the development of extended child care for parents working during nights or on weekends, or for any other

nontraditional child care needs for which the department determines that available child care is inadequate or unavailable in all or any part of the state, the department may promulgate rules pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, providing for alternative fee schedules in order to recognize and encourage the development of child care to meet such needs.

SECTION 19. Tennessee Code Annotated, Section 71-3-502(h), is amended by deleting the language "and renewal".

SECTION 20. Tennessee Code Annotated, Section 71-3-502(j), is amended by deleting the subsection and substituting the following:

(1)

(A) The department shall establish and implement a quality assessment and rating system for the purpose of evaluating, individually and collectively, child care agencies licensed or approved by the department pursuant to this part so that parents or other caretakers of children enrolled, or being considered for enrollment, at a child care agency, may make more informed decisions regarding the care of their children by comparing the quality of services offered by child care agencies, to encourage the improvement of out-of-home child care for children in this state, and to support child care providers in continuously improving the quality of services and support they provide families. The quality assessment and rating system established pursuant to this subsection (j) must be developed in a manner easily usable by parents or other caretakers of children to make informed choices related to child care.

(B) For purposes of this subsection (j), "child care agencies" includes child care centers, group child care homes, and family child care homes.

(2)

(A) The department shall promulgate rules establishing the quality assessment and rating system under this subsection (j). Each child care agency must receive a quality assessment and rating evaluation after the rules establishing the quality assessment and rating system under this subsection (j) become effective, and annually thereafter. This quality assessment and rating system must include an annual evaluation of each child care agency by the department and must reflect key indicators of performance comparison among all child care agencies in this state, which may include information related to the following:

- (i) Health and safety practices; and
- (ii) Teacher-child interactions.

(B) The department shall not discriminate or fail to recognize the credentials of any accrediting agency based upon religious affiliation, race, age, color, sex, or national origin.

(C) Upon completion, the quality assessment and rating results of each child care agency must be available on the department's website and posted in a clear and visible location at each child care agency for review by the parents or other caretakers of children enrolled, or being considered for enrollment, at the child care agency.

(3) Any child care agency that accepts the department's child care assistance subsidy payments may receive higher subsidy payments or other financial performance incentives, as determined by the department, based upon the child care agency's quality assessment and rating results, subject to available funding in the department's budget.

(4) The commissioner and the comptroller of the treasury may, in their discretion, conduct audits of the records of any child care providers as necessary to

verify that the expenditures by a child care provider of state or federal child care subsidy funds are being made according to state or federal requirements.

(5) A child care agency is subject to denial or revocation of the agency's license by the department and may also be subject to a civil penalty of five hundred dollars (\$500) imposed by the department if the child care agency knowingly:

(A) Provides false information or fails to provide any information to the department, the comptroller, or their agents or designees that is required or necessary to perform any of the requirements of this title or to enforce state or federal law or regulations, or child care subsidy or licensing requirements;

(B) Fails to allow entrance by any person designated by the department to perform the evaluation required by this subsection (j); or

(C) Continues to display expired or revoked quality assessment and rating results after written notice by the department.

SECTION 21. Tennessee Code Annotated, Section 71-3-502(g), is amended by deleting the subsection.

SECTION 22. Tennessee Code Annotated, Section 71-3-509(b)(1), is amended by deleting the language ", during the licensing period,".

SECTION 23. Tennessee Code Annotated, Section 71-3-509(d)(1), is amended by deleting the language "temporary license or for the renewal of an existing license" and substituting the language "provisional license"; deleting the language "application for the new or renewed license" and substituting the language "license following the issuance of a provisional license"; and deleting the language "deny a temporary" and substituting the language "deny a provisional".

SECTION 24. Tennessee Code Annotated, Section 71-3-509(d)(3), is amended by deleting the language "the temporary, annual, or extended license is denied" and substituting

the language "a provisional license is denied, a license is denied following the issuance of a provisional license,".

SECTION 25. Tennessee Code Annotated, Section 71-3-514(f)(1), is amended by adding the word "provisional" before the word "license".

SECTION 26. Tennessee Code Annotated, Section 71-3-514(f)(2), is amended by deleting the language "the application for a license renewal" and substituting the language "a license following the issuance of a provisional license".

SECTION 27. For purposes of rulemaking, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect July 1, 2021, the public welfare requiring it.